

Please amend FIG. 3 and FIG. 4 as indicated on the attached drawing amendment sheet.

#### REMARKS

Reconsideration is respectfully requested.

Claims 1-10 are pending in this application. Claims 1, 4, 5, 7, and 9 are amended. New claims 10-20 are presented, depending (either directly or indirectly) from either claim 4 or claim 9.

The Examiner objected to the drawings. Drawing amendments are submitted herewith with attention to the Examiner's concerns. The reference item 8 in FIGS. 3 and 4 was a typographical error, and has been corrected to be item 7. In view of these amendments, it is respectfully requested that the drawing objections be withdrawn.

Claims 1-9 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Applicant has made amendments herein to first reference the particular elements objected to by the indefinite article "a" rather than the definite article "the". Also, the phrase "or similar article" has been removed from claim 5. In view of these amendments, the claims are believed in compliance with 35 U.S.C. §112, second paragraph, and withdrawal of the rejection is now respectfully requested.

Claims 1, 2 and 6 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Jansma et al (U.S. 4,856,540) in view of Muller (U.S. 2,005,661) in view of Bauer et al (U.S. 2,389,104). Claims 3 and 5 are rejected under 35 U.S.C. §103(a)

as allegedly being unpatentable over Jansma et al (U.S. 4,856,540) in view of Muller (U.S. 2,005,661) and Bauer et al (U.S. 2,389,104) as applied to claim 1 above, and further in view of Stavridis (U.S. 6,257,242). Claim 7 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Jansma et al (U.S. 4,856,540) in view of Muller (U.S. 2,005,661) and Bauer et al (U.S. 2,389,104) as applied to claim 1 above, and further in view of Pryor (U.S. 4,525,385). Claim 8 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Jansma et al (U.S. 4,856,540) in view of Muller (U.S. 2,005,661) and Bauer et al (U.S. 2,389,104) as applied to claim 1 above, and further in view of Cobb (U.S. 3,025,861).

Applicant respectfully traverses.

None of the cited references, whether considered alone, or when combined, discredits the novelty, or inventive level of applicant's claims.

Contrary to the examiner's opinion, the smoking article with a lengthened elastic filtering mouthpiece of the tissue size and a rather short tobacco rod (in relation to filtering mouthpiece) is not described or disclosed in the Jansma et al US Patent No. 4,856,540.

Jansma et al in column 4 lines 30-35 teaches that the length of a sample 30 of modified filtering elements 1 makes approximately  $\frac{3}{4}$  from the whole length of the filter of a common cigarette, but not of the length of the cigarette, which consists of the length of the filter and the length of a tobacco rod.

This is the radical distinction between smoking articles.

The purpose of the claimed invention is to create a new smoking article combining consumer properties and qualities, of both smokables, and cigarettes with the filter.

Mouthpieces of traditional smokables are made of a paper or a similar material, have thin walls, are rumpled at smoking and soak through, and filters for such smokables represent separate plug-in loose leaves (cartridges), inserted in a paper mouthpiece before the beginning of smoking.

Moreover, tissue mouthpieces from paper sleeves are usually rumpled crosswise before the beginning of smoking because a paper mouthpiece of the round form is not held well by the teeth of a smoker.

Smoking of smokables slightly differs from smoking cigarettes, namely, by that the mouthpiece of a smokable can be held rather long with the teeth ("chewing" a mouthpiece). Usually cigarettes are not smoked in this way; their short filters cannot be strongly clamped with teeth as the filters then become collapsed and cease to be the filter.

Smoking the smokables provides their holding on a mouthpiece, and smoking of usual cigarettes provides their holding on the short filter. All disadvantages of the known art are disclosed in the description of the present application.

Thus, Jansma et al describes not a smokable, but a cigarette, having a complex filter, formed by actually fibrous tubular part and the tubular loose leaf 1.

Not  
Claimed

Smoking in particular a cigarette, the smoker will inevitably hold a cigarette on the tobacco rod or on the threshold of the tobacco rod and the filter.

The design of a cigarette according to the Jansma et al patent cannot discredit the novelty and inventiveness/non-obviousness of the claimed invention either on function, or under the form of execution because of the following reasons:

- element 1 is not an independent mouthpiece as well as a filtering mouthpiece, i.e. that part of a smoking article, which is kept directly by the teeth or lips.

- the channel inside the usual filter of a usual cigarette is formed with the help of the element 1. Applicant asks that particular attention to this point.

- element 1 represents a separate detail of substantial complex geometrical form, inserted in a body of the fibrous filter 2c;

- element 1 is made not of a fibrous filtering material, but from the plastic, which does not pass smoke, and a hole 33 for passing of smoke is stipulated. Please also take particular note of this point.

- plastic element 1 is not a filter, in the sense that through its material (a plastic material) the smoke does not pass; the smoke passes, but not is being filtered, through apertures 33 in the element 1 and nicotine may be deposited on internal walls of the element 1 but not being filtered through its material.

- Fig. 1 shows, that the element 1 is pressed in the filter 2, and the length of the filter 2 is, at least, twice less than the represented tobacco rod 2a.

The applicant's claimed invention has nothing in common with this above described design.

It is specified in the claims of the present application that exactly lengthened elastic mouthpiece of the tissue size is joined with a tobacco rod.

Thus, the cigarettes with rather short filters and a long smoking part (so-called common cigarettes, for example, let out under the trade marks KENT, WINSTON, MARLBORO, PARLAMENT, DAVIDOFF, CAMEL and similar ones), described in patents and available in the market, do not get in this category of smoking articles.

Applicant attracts the examiner's attention to the point that the claimed invention does not concern common cigarettes with a filter, and all features of the claimed invention in a whole characterize the form of performance, design features and ratio of the sizes of a smoking article, which is externally more similar to a cigarette, not being, nevertheless, a cigarette in its classical execution.

This is detailed specified in the description of the filed application in the - Field of the Invention - section and in the - Disclosure of the Invention - section.

In the claims of the present application it is also marked that the elastic mouthpiece is executed from the pressed fibrous material and has a filtering element made as a complete unit with

its tubular part and executed from the same fibrous material. Thus, the mouthpiece of the tissue size and its filtering part are executed from one and the same fibrous preparation.

This particular characteristic allows speaking about such a feature as a "filtering mouthpiece" which walls in a tubular part also work as the filter through which a smoke can pass.

Applicant wishes to emphasize, that the invention does not equate to making a tobacco part short, and the filter long.

If a problem is so simply stated, it easily can be solved simply due to change of the sizes, but only of known parts of known smoking products. However, that is not what is being done here by applicant.

The claimed smoking article incorporates parts of smoking articles new under the form of performance, the features of which are set out in applicant's claims.

Cigarettes and smokables are two different products, therefore it cannot be said, that, having taken a smokable for the prototype, applicants has made an advanced cigarette, and, accordingly, vise versa.

Applicant respectfully believes that it is not necessary to furnish proof that cigarettes and smokables are different smoking articles.

That is why a "smoking article", as a general patrimonial concept including concepts - cigarettes and smokable, is applied in the claims.

Applicant respectfully disagrees with the Examiner's opinion that the feature "fibrous material of the mouthpiece being

pressed to such a degree so as to ensure restoration of the tubular portion open flow area after removal of compressive load under which the tubular portion has been fully compressed" is obvious to the specialist.

Nobody put such a task for the tissue mouthpieces partly having properties of smokables' filters. Hence, the features realizing the task cannot be considered obvious to the specialist.

Previously, mouthpieces of tissue type were rumpled so, that did not restore the tubular portion open flow area. Moreover, a smoker had periodically bit off the end of the crumpled paper mouthpiece and spat it out. The paper tissue mouthpiece could be bent, mashed with fingers, torn off the wet end, remove a tissue environment, made of a thin paper which was simultaneously an environment for tobacco, from it.

Statement of problem itself - to make a mouthpiece of the tissue size noncreasable and not folding, and carrying out the function of the filter for a smoke, is not evident, and absence of such smoking articles in the market for years testifies to this.

Usual cigarettes with the short filter, usual smokables with the lengthened mouthpiece, various independent mouthpieces for cigarettes without filters, cigars, cigars with tips - mouthpieces, cigarillas are presented in the market.

But the smoking articles of the claimed type combining smokables with cigarettes are not presented in the market.

It is necessary to emphasize, that the cult of smoking of smokables always provided the opposite, namely mashing a paper mouthpiece so, that its tubular portion open flow area is not restored, but turned to a slit.

At the same time, having given to a mouthpiece of the tissue size a feature of not losing the form at smoking, keeping simultaneously an opportunity of its strong compressing by teeth, the smoking article became possible to smoke as a cigarette as well, i.e. not compressing by teeth, but only holding by lips.

Thus, the new smoking article began to satisfy to habits of both smokers of cigarettes, and smokers of smokables.

It is a completely nonnevident statement of problem, and means for its decision do not follow from the known level of art in all set of features providing such a result.

The type of smoking is rather important, as it defines the contingent of smokers.

For example the following comparison can be given.

There are classical cigars smoking of which has the features which are not comparable either with smoking of cigarettes, or with smoking smokables.

Nobody has still created the smoking article simultaneously having appeal of cigars, cigarettes and smokables, i.e. when one article can be bought by different smokers, but the smoking article can be smoked as a cigar, and as a cigarette, and as a cigarette as well.



The claimed invention of this application makes possible to solve this problem for smokers of both cigarettes and smokables, and both smokers - men, and women.

It is especially important, as women's smoking of smokables is emotionally negatively perceived by a society because it is considered, that smokables are basically men's product; compressing a mouthpiece of a cigarette by teeth has not typically been done by a smoking woman.

A woman can smoke the applied smoking article like a usual cigarette, easily touching with lips, not damaging lipstick as the elastic mouthpiece keeps the primary round form, does not become wet and does not stick to lips.

Thus, it can be asserted that a universal product having, along with all specified advantages, also the feature that its smoking part is rather short (as smokables have) is created in the applied invention. Thus, a new smoking article, being aesthetic, does not, nevertheless, increase consumption of nicotine (as it takes place in cigarettes with a long tobacco rod), and does not promote increase of amount of smokers.

Proceeding from aforesaid, it becomes apparent, that other oppositions do not concern to the declared type of smoking articles of "tissue size", do not discredit novelty and inventive level.

In the US Patent No. 3025861 (Cobb) only tobacco filter executed from a fibrous material is described. The Cobb patent contains no design of a smoking article having a mouthpiece of the tissue size made of a fibrous material, forming both

mouthpiece parts and a filtering part, executed as a single element from one and the same fibrous preparation.

This analysis concerns also the US Patent No. 2,389,104 (Bauer et al), in which the tobacco article including separate dividing smoking parts, which have no mouthpiece of the tissue size is described and, which, accordingly, presents no other features of the claimed invention.

The US Patent No. 4,525,385 (Pryor) and the US Patent No. 2,005,661 (Muller) do also not disclose smoking articles of the type, which are described in the presented application.

The applicant especially emphasizes, that separate creation of "fibrous filter" or use of "acetate fibers" or "coal filter" do not enter the problem of the invention.

The applicant knows no similar smoking articles, which have combined the positive and negative sides of both widely used cigarettes, and practically not used smokables from the known level of art.

Moreover, the statement of a problem for such an overlapping is not obvious to specialists, that is proved by full absence of similar articles in the market.

Samples of the tobacco articles made according to the applied invention will be hand delivered to the Examiner by the office of Berlin & Associates, so that the Examiner can study them directly. These smoking articles are delivered and successfully realized under the mark CIGARONNE in many countries of the world, including the USA. The trademark CIGARONNE is protected in more than 50 countries - members of the Madrid

Agreement (IR 721636), and also in the US (U.S. Trademark registration 2,572,047). Applicant respectfully submits that this testifies to commercial success of the invention, which is additional evidence of the patentability thereof.

Also, Granting Decisions for similar applications filed in Russia, Turkey and Australia were issued.

Also, with respect to Stavridis, please note that the applicant's priority date precedes the filing date of Stavridis. Therefore, Stavridis cannot be prior art.

In view of the above, it is respectfully submitted that the various documents cited by the Examiner, whether considered alone, or when combined, neither teach nor suggest applicant's claimed invention as set forth in claims 1-3 and 5-8. Accordingly these claims are respectfully submitted to be allowable.

Claims 4 and 9 are indicated as being allowable if rewritten to overcome the section 112 rejections, and to include all of the limitations of the base claim and any intervening claims. Claims 4 and 9 have been so rewritten, and are therefore now submitted to be allowable.

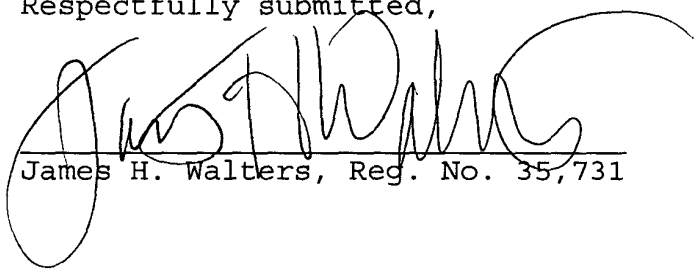
New claims 14-20 are added with this response, and are also submitted to be allowable, as they depend from allowable claims 4 and 9. These new claims add various elements that were set out in other dependent claims that had depended on claim 1.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim,

unless applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

In light of the above noted amendments and remarks, this application is believed in condition for allowance and notice thereof is respectfully solicited. The Examiner is asked to contact applicant's attorney at 503-224-0115 if there are any questions.

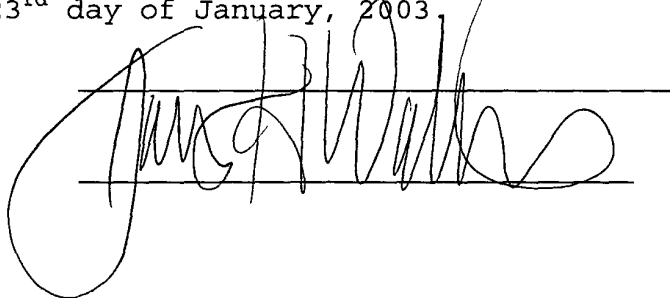
Respectfully submitted,

  
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MARKUP VERSION TO SHOW CHANGES MADE

In the Claims:

1. (Amended) A smokers' article characterized in that it comprises a tobacco rod wrapped in a separate sleeve made of cigarette paper, a resilient and elongated mouthpiece which is connected to said rod and has the size of a cardboard mouthpiece and which is made of a pressed fibrous material and includes a filter member arranged on the tobacco rod side and made integral with [the] a tubular portion of said mouthpiece, said filter member being a continuous cylinder with a diameter substantially equal to that of the elongated mouthpiece tubular portion and which total length exceeds that of said tobacco rod;

the length of the said cylindrical filter member being at least half as great as the length of the tobacco rod and at least one third as great as the length of the said tubular portion of the mouthpiece, the tobacco rod being connected to the elongated mouthpiece with a paper ring overlapping, at least, the surface of said cylindrical filter member, and the fibrous material of the mouthpiece being pressed to such a degree so as to ensure restoration of the tubular portion open flow area after removal of compressive load under which the tubular portion has been fully compressed.

4. (Amended) [The smokers' article according to claim 1] A smokers' article characterized in that it comprises a tobacco rod wrapped in a separate sleeve made of cigarette paper, a resilient and elongated mouthpiece which is connected to said rod and has

the size of a cardboard mouthpiece and which is made of a pressed fibrous material and includes a filter member arranged on the tobacco rod side and made integral with a tubular portion of said mouthpiece, said filter member being a continuous cylinder with a diameter equal to that of the mouthpiece tubular portion and which total length of said filter member exceeds that of said tobacco rod;

the length of the said cylindrical filter member being at least half as great as the length of the tobacco rod and at least one third as great as the length of the said tubular portion of the mouthpiece, the tobacco rod being connected to the elongated mouthpiece with a paper ring overlapping, at least, the surface of said cylindrical filter member, and the fibrous material of the mouthpiece being pressed to such a degree so as to ensure restoration of the tubular portion open flow area after removal of compressive load under which the tubular portion has been fully compressed,

wherein an additional filter member is arranged behind said cylindrical filter member inside said mouthpiece tubular portion.

5. (Amended) The smokers' article according to claim 1 wherein an additional filter member is made of activated carbon [or similar filtering material].

7. (Amended) The smokers' article according to claim 1 wherein said resilient and elongated mouthpiece made of a pressed fibrous material has [the] a plasticized outer surface.

9. (Amended) [The smokers' article according to claim 7] A smokers' article characterized in that it comprises a tobacco rod wrapped in a separate sleeve made of cigarette paper, a resilient and elongated mouthpiece which is connected to said rod and has the size of a cardboard mouthpiece and which is made of a pressed fibrous material and includes a filter member arranged on the tobacco rod side and made integral with a tubular portion of said mouthpiece, said filter member being a continuous cylinder with a diameter equal to that of the mouthpiece tubular portion and which total length of said filter member exceeds that of said tobacco rod;

the length of the said cylindrical filter member being at least half as great as the length of the tobacco rod and at least one third as great as the length of the said tubular portion of the mouthpiece, the tobacco rod being connected to the elongated mouthpiece with a paper ring overlapping, at least, the surface of said cylindrical filter member, and the fibrous material of the mouthpiece being pressed to such a degree so as to ensure restoration of the tubular portion open flow area after removal of compressive load under which the tubular portion has been fully compressed,

wherein said resilient and elongated mouthpiece made of a pressed fibrous material has a plasticized outer surface,

wherein said resilient and elongated mouthpiece made of a pressed fibrous material with the plasticized outer surface has a ring portion which is not covered with a plasticizer, is arranged

behind said paper ring and provides additional air inflow in smoking.